

Remarks:

Status of Claims

Claims 28-60 were previously pending and claims 37, 45, 46, and 49 are amended herein. Thus, claims 28-60 are currently pending with claims 28, 37, and 46 being independent.

Office Action

In the September 20, 2005, Office Action, the Examiner rejected claims 28-33, 36-38, and 40-60 under 35 USC 102(e) as being anticipated by West (U.S. Patent No. 6,314,699) and rejected claims 34, 35, and 39 under 35 USC 103(a) as being unpatentable in view of West and Erwin (U.S. Patent No. 5,660,016). The Examiner additionally required correction of minor informalities in the specification, which have been undertaken herein. Applicant respectfully submits that the arguments and amendments made herein overcome the Examiner's rejections.

Claims 28-36

Claim 28, from which claims 29-36 depend, includes the feature of a board having a lower lip thickness "E" and a fastener having a protrusion with a height "F", wherein "E" is at least 1% greater than F. This configuration is described beginning on page 5 of the specification and is clearly illustrated in FIGS. 3-5. Due to the lower lip being operable to fit under the protrusion despite being larger in size ($E > F$), the boards are more securely held by the fasteners, preferably with a downward holding force as discussed below, than if the lower lip thickness was equal to or less than the protrusion height ($E < F$).

In contrast, West provides a board having a lower lip thickness that is substantially less than a height provided a fastener protrusion ($E \ll F$). As shown in FIG. 1A, West's lower lip has a height that is substantially less than the height of the protrusion (deck clip 12) as measured from the board 14. Such a configuration is necessary as West's protrusion must rotate into the receiving chambers 18 to secure the board (column 2, line 48 through column 3, line 14). A gap is also clearly shown below the protrusion when inserted into the chambers (FIG. 1A), thereby further evidencing

West's use of a lower lip having a thickness substantially less than the height provided by a protrusion. As shown in FIG. 3 of the present application, no gap exists between the lower lip and the protrusion. Thus, West does not disclose a board having a lower lip with a thickness less than a protrusion height, and claims 28-36 are allowable as a result.

Claim 31 and all claims that depend therefrom are additionally allowable as they include the feature of a fastener operable to apply a downward holding force. As discussed below in relation to claims 37-45, no prior art of record discloses this feature.

Claims 37-45

Claim 37 has been amended herein to include the feature of a fastener having a protrusion operable to continually exert a downward holding force on a board. Support for this feature is found on page 5 of the specification. Thus, the present invention does not merely retain a board in place, but by applying a downward force, i.e. a force exerted towards the joists 12, rigidity and durability of the formed deck are increased. The Examiner generally contends, in relationship to dependent claim 31, that West applies a downward holding force by utilizing the nubs 48.

However, as is clearly evident from West FIG. 1A and its written description, West provides no continuous downward holding force as the nubs 48 do not generally contact the lower lip. Specifically, West provides that the boards are installed by "turn(ing) the securing member or clip 12 into a second position such that the nub 48 **is no longer disposed in engagement with a deck board 16**" (col 4. Lines 55-59). Further, FIG. 1A clearly illustrates a visible gap between the nubs 48, the clip 12, and the lower lip of the board 16, thereby establishing a lack of a downward holding force. Thus, West, and all other prior art of record, fails to disclose or suggest a downward holding force.

Claims 41-43 are additionally allowable as they recite the various structural relationships regarding a lower lip thickness and a protrusion height as discussed above in relation to claims 28-36.

Claims 46-60

Independent claim 46, from which claims 47-60 depend, includes the feature of positioning a first fastener to exert a "downward holding force" on a first board. As discussed above in relation to claims 37-45, West, and all other prior art of record, fails to disclose or suggest a fastener operable to provide a downward holding force. Thus, claims 46-60 are in allowable condition.

Claims 54-56 are additionally allowable as they recite the various structural relationships regarding a lower lip thickness and a protrusion height as discussed above in relation to claims 28-36.

Conclusion

In view of the argument and amendments made herein, Applicant respectfully submits that claims 28-60 are in allowable condition and requests a corresponding Notice of Allowance. In the event of further questions, the Examiner is urged to call the undersigned. Any additional fee which might be due in connection with this application should be applied against our Deposit Account No. 19- 0522.

Respectfully submitted,

HOVEY WILLIAMS LLP

BY: 

Tracy Bornman, Reg. No. 42,347
2405 Grand Blvd., Suite 400
Kansas City, Missouri 64108
(816) 474-9050
ATTORNEYS FOR APPLICANT